

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. APPLN. NO. 10/001,963

REMARKS

Applicant respectfully traverses the rejection of claims 1-3 and 8 under 35 U.S.C. § 102(c) as being anticipated by Stettner '482.

Such a rejection requires that Stettner '482 disclose, either expressly or inherently, each of the limitations of each of claims 1-3 and 8, or in other words, that each of claims 1-3 and 8 be readable on Stettner's disclosure. Applicant respectfully submits that clearly such is **not** the case here.

More specifically, in the Examiner's "Response to Arguments", the Examiner points out that the rejected claims 1-3 and 8 do not recite the feature of "a scaled light intensity". Thus, and as presented above, Applicant proposes to amend independent parent claim 1 to recite this "scaling factor" feature, in that claim 1 now recites the step of "determining a scaling factor between the intensities of said second and first pixels with the ratio between the second and first time periods".

In the "Response to Arguments", the Examiner alludes to the fact that this feature is disclosed in Applicant's specification, and Applicant refers the Examiner especially to Applicant's specification at page 14, lines 16-31, for support of the step added to claim 1.

The Examiner only objected to claims 4-7 and 9. Applicant has rewritten claims 4 (4/1) and 5 (5/1) in independent form, whereby Applicant respectfully submits that claims 4-7 and 9 now also should be allowed.

Claims 10-27 already are allowed.

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Applicant is aware that amendments after a "final" Action are not enterable as a matter of right; however, the above proposed amendment of claim 1 was not suggested by the Examiner until this "final" Office Action under "Response to Arguments", and this is why the amendment was not earlier made. Furthermore, as stated in the MPEP, an amendment after a "final" action is enterable if the amendment places the application in condition for allowance. Here, Applicant respectfully submits that, in view of the Examiner's comment under "Response to Arguments", the Examiner should expect the above claim 1 proposed amendment which, Applicant respectfully submits, clearly places the application in condition for allowance.

However, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application.

Applicant files concurrently herewith an Excess Claim Fee Payment Letter with the fee required to cover the cost of the one (1) excess independent claim added by this proposed Amendment.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to

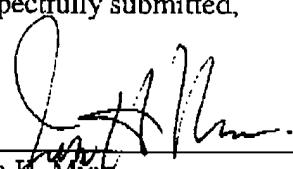
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Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,



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